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SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

October Term, 1967

No. [redacted] 10

WHYY, INC., *Appellant*,

v.

BOROUGH OF GLASSBORO

and

DIVISION OF TAX APPEALS OF THE DEPARTMENT OF THE TREASURY OF THE STATE OF NEW JERSEY,

Appellees

On Appeal From the Supreme Court of New Jersey

REPLY BRIEF FOR APPELLANT

JAMES M. MARSH,
1500 Seven Penn Center Plaza,
Philadelphia, Pennsylvania,
Attorney for Appellant.

Of Counsel:

GROVER C. RICHMAN, JR.,
RICHMAN, BERRY & FERREN,
Wilson Building,
Camden, New Jersey,

WILLIAM B. FREILICH,
LEWIS WEINSTOCK,
LABRUM AND DOAK,
1500 Seven Penn Center Plaza,
Philadelphia, Pennsylvania.

THE LEGAL INTELLIGENCER, 10 S. 37TH ST., PHILA. 19104

IN THE

Supreme Court of the United States

October Term, 1967

No. 824

WHYY, INC., *Appellant*,

v.

BOROUGH OF GLASSBORO
and
DIVISION OF TAX APPEALS OF THE DEPARTMENT OF THE TREASURY OF THE STATE OF NEW JERSEY,
Appellees

On Appeal From the Supreme Court of New Jersey

REPLY BRIEF FOR APPELLANT

1. The Supreme Court of New Jersey expressly considered and rejected the federal constitutional challenge to the validity of the state statute[1] here involved. That court said "As this constitutional contention is one of great concern to many municipalities and nonprofit foreign corporations, the public interest in this question demands that it be decided." (A-9). This Court has frequently noted that

[1] The statements concerning the alleged taxing problems of the Borough of Glassboro, appearing on pages 6-7 of Appellee's Brief, involve matters which are outside the record and immaterial in any event. Ordinances of political subdivisions of states must also meet the equal protection requirements of the Fourteenth Amendment. *Independent Warehouses v. Scheele*, 331 U. S. 70, 79 (1947); *Jamison v. Texas*, 318 U. S. 413, 414 (1943); *King Mfg. Co. v. City Council of Augusta*, 277 U. S. 100 (1928).

a litigant's right to appeal cannot be questioned under such circumstances. *Raley v. Ohio*, 360 U. S. 423, 436 (1959); *Home Ins. Co. v. Dick*, 281 U. S. 397, 407 (1930); *Whitney v. California*, 274 U. S. 357, 360-61 (1927).

2. Appellant furnished to the State of New Jersey all the information required in order to qualify for admission to New Jersey and to operate there as a nonprofit corporation, and would have furnished any other information upon request. The New Jersey courts have no right to deny appellant's right to equal protection of the law by intimating that, had the legislature required more information, it might also have denied tax exemption in some circumstances. The actual facts are that appellant complied with all New Jersey requirements; was admitted to New Jersey as a non-profit corporation; and was denied the tax exemption solely because incorporated in Pennsylvania and not in New Jersey. Many decisions of this Court, including *Wheeling Steel Corporation v. Glander*, 337 U. S. 562 (1949), prohibit such action by any state.

Respectfully submitted,

JAMES M. MARSH,
1500 Seven Penn Center Plaza,
Philadelphia, Pennsylvania 19103
Attorney for Appellant.